

Meeting Notes
Turning Point Public Health Statute Modernization Collaborative
May 9, 2003
Washington, DC

Members Present: Allen, Birkhead, Brandenburg, Braunginn, Brown, Erickson, Hase, Hatcher, Henneberry, Horton, Moulton, Munter, Nicola, Palm, Speissegger, Strand, Wall, Zelazek, Nault

Consultants present: Gostin, Hodge

Others present: Lance Gable and Lesley Stone (Fellows from Center for Law and the Public's Health)

Public Comments

James presented what he considered to be the 12 areas on which we received significant and substantive comments:

1. Sections 5-101(b)(7) and 5-109(h): Exemptions for religious, moral, or philosophical reasons related to testing, screening, treatment, and principally vaccination
2. Creation of provisions relating to protecting environmental health
3. Section 1-102 (6): Refinement of definition of "conditions of public health importance" to specifically include injuries, environmental health, social environment
4. Formation of state or local boards of health
5. Articles III [3-103] and IV: Additional respect for local home rule or stronger local government presence
6. Section 3-102: Role of performance management standards (e.g., accreditation, credentialing) relating to the public health workforce
7. Article III: Inclusion of principles of "cultural competencies"
8. Section 5-105: Tightening and clarification of partner counseling and referral services
9. Section 5-106(d); Article V: Addition of a specific section on newborn screening
10. Article VII: Reformation of public health information privacy protections to focus on public health data systems
11. Articles II, VII: Distinction of public health practice from research
12. Article VIII, Articles VI and VII: Elimination of specific criminal and civil sanctions against public health agents

Collaborative members added two additional areas for further discussion:

13. Protocols for rulemaking
14. Article IV: Tribal issues

In discussion on May 9, we made decisions about six of those areas:

1. Exemptions: for vaccinations, moral/philosophical exemptions were eliminated. Religious exemptions allowed pursuant to judicial review with the health department able to appear if they wish to oppose the exemption. New language is needed describing the judicial process; the group expressed significant concern about the perceived and real barriers posed by a court process, also that the judicial standard for immunization exemptions should not be the same as that proposed for diagnosis and treatment. However, the intent is to establish an appropriate process for reviewing whether the claim of religious exemption meets the legal requirements; it is not appropriate for the health department to make this determination. NOTE: As a prelude to discussion on this item, Dr. Birkhead presented information on the issues related to unimmunized children. Handouts he brought to the meeting were mailed to Collaborative members a few weeks after the meeting.

2. Environment health: The group revisited and reconfirmed its earlier decision to exclude environmental health provisions from the scope of this model act. While acknowledging the importance of environmental factors to the health of the public, the group decided that a comprehensive treatment of environmental health is beyond the scope of public health law. Environmental health will be defined and referenced in the Act but not incorporated.
4. Boards of health: will be addressed in Prefatory Notes only, consistent with the earlier decision to leave organizational structure out of the Act.
8. Partner counseling and referral services: To clarify intent, replace “partner” with “persons exposed”. Reaffirmed that disease-specific processes should be in regulation, not law.
9. Newborn screening: The group considered the existing language in the Act to adequately provide authority for states to implement newborn screening programs.
13. Protocols for rulemaking: Language will be added to Prefatory Notes under Section 8-101 to address the role of statutes vs administrative rules.

The remaining eight items were placed on the agenda for discussion and decision making on June 19 in Atlanta.

All other comments will be left to James to incorporate as he sees fit into a revised version of the Act that will be circulated to Collaborative members for review after July 31.

Response to commenters

After Atlanta meeting, Pat will respond (primarily by email) to all who submitted comments thanking them for their input. Rather than responding individually to each based on specific comments, a document will be attached listing the 14 substantive topics and noting the decisions that were made.

Seeking additional comments/Additional distribution of the Act

The group discussed the range of comments received during the public comment period and identified organizations, groups and individuals from whom feedback or additional feedback would be helpful. Collaborative members who volunteered to make additional contacts were:

- Larry Gostin -- contact civil liberties organizations
- James Hodge -- contact health law programs and academicians
- Lisa Speisegger -- contact ALEC and the Federalist Society (I have a question mark after that but I don't remember why.)
- Donna Brown -- National Association of Counties
- Joan Henneberry -- send information through intergovernmental network and contact George Hardy re: the ASTHO/NACCHO meeting
- Denise Hase -- inquire about getting MSPHA on the County Forum at ASTHO/NACCHO
- Deb Erickson -- publicize among Chief Deputies
- Barbara Hatcher -- will attempt to gather comments which appeared on a public health listserv but were not forwarded to the Collaborative
- Heather Horton -- will follow up with Gene Matthews to send MSPHA through channels to Secretary Thompson – for his information only, not asking for approval or endorsement.

Larry noted that Jim Curran, one of the members of the board of the Institute of Medicine, commented very favorably about Turning Point's significance to public health.

Timeline for publication/roll-out of the Act

Discussion: Public health is again in the limelight due to SARS. The Collaborative needs to use this opportunity to get the finished version of the Act into the hands of advocates and legislatures by October to allow time for policy assessment, drafting and potentially introduction of legislation in the next session of state legislatures beginning in January 2004.

Timeline established:

Discussion of comments at Atlanta meeting	June 19 & 20, 2003
Interim draft done (all changes) and distributed to members	June 30, 2003
Discussion of changes by email & teleconference	July 1 – July 30, 2003
Deadline for member comments on changes	July 31, 2003
Deadline for drafting final revisions to the Act	August 31, 2003
Pre-publication and printing	Sept. 1-Sept. 30, 2003
Collaborative meeting in LaJolla, CA	Oct. 8, 2003
Collaborative presentation to Turning Point grantees/partners	Oct. 9, 2003
Dissemination	October 2003
Alaska meeting	March 2004

NOTE - Two timeline issues came up after the May 9 meeting and will be discussed on June 19-20:

- Final approval was received to proceed with the cooperative plan with the National Association of Attorneys General to convene a group of attorneys general to provide feedback on the Act and audience information needed by the Communications Team. This meeting is scheduled for July 16-18, 2003 in Denver.
- Advance planning with the Turning Point National Program Office around publication of the Act indicates a need to hasten the timeline a bit. NPO publications staff estimate that the finished document (formatted and proofread) must be delivered to them by August 29 to have printing completed by October 10. This is a shortened version of the usual NPO publication timeframe based on: 1) the publications technician at Alaska DPH (rather than the NPO staff) doing the final layout prior to Aug. 29, and 2) no additional proofreading after the document is turned over to the NPO.

Report on tribal contacts

Teresa had meetings with the National Congress of American Indians and the Indian Health Service to discuss the MSPHA.

- NCAI is promoting tribal policy making and has an interest in the Act from that perspective. They have a June conference scheduled on policy making.
- IHS is looking at the homeland security aspect of the Act because this is the request they are getting frequently from tribes now. Also self governance tribes can use this as a model. Because the tribes look to the IHS for information, this agency is in a good position to advance the MSPHA if it chooses to. Teresa suggested a meeting between the IHS and the Collaborative to look at working together but hasn't received a response on this. The possibility of the IHS sustaining the MSPHA when Foundation funding ends was also mentioned during her meeting.
- The contact with Secretary Thompson to advise him of the MSPHA would advance a relationship between the Collaborative and the IHS.
- Teresa received a call from the State of Arizona's tribal liaison asking if any funding is available to develop a tribal public health act.
- Teresa commends Wisconsin for involving tribes in the law project there.

Pilot projects

Colorado, Nebraska and Wisconsin are interested in running MSPHA pilots as part of the Special Opportunities grant project. The Collaborative discussed this and agreed that three pilots operated by 1) a state public health association (WI), 2) three county health agencies (CO), and 3) state government (NE) would be informative.

- Colorado: attorneys in three counties are willing to work together on a pilot.
- Nebraska provided a written summary of the process, timeframe and budget for its pilot. At this time an in-house attorney is comparing the state statute to the MSEHPA. This attorney is willing to help with a comprehensive review of the public health statute against the MSPHA but doesn't have time to do it all; this site will contract with another attorney to assist.
- Wisconsin will try to get the legislature to initiate the request for assessment of public health laws and use legislative resources to carry it out. Pilot would focus on developing consensus on what changes are needed (based on assessment) before going into the legislative arena.

Requirements established for the pilots were:

- Each pilot must include tribal involvement.
- Each site will make a presentation to the Collaborative on its efforts.
- Each site will produce a final written report.
- Pilots will start when the final version of the MSPHA becomes available.

Tracking

James started tracking use of the MSPHA in April 2003. North Carolina and Pennsylvania have already introduced bills using language from the Act. Hawaii's House of Representatives introduced a resolution asking the governor and the health department to explore Hawaii's participation in Turning Point; the resolution directly references the Public Health Statute Modernization Collaborative and the Model State Public Health Act.

UPCOMING

Collaborative Meeting in LaJolla, CA on Thursday, October 8, 2003

Sustainability will be one of the main topics. Suggestions:

- Invite Indian Health Service representative to the meeting. Pat will work with Teresa on this.
- Invite Sue Hasmyler from the Robert Wood Johnson Foundation. Pat will work with Bud on this.

Communications/Roll out

We need to get Larry/James invited to speak at the ASTHO/NACCHO meeting in Phoenix in September. Joan will call George Hardy about this. The Collaborative/model law need to be included in the Turning Point exhibit planned for that meeting.

Work is in progress to establish a contract with Spitfire Strategies to design and carry out a targeted national media campaign to publicize the need to update public health laws and roll out the MSPHA. If all goes well, consultant Beach von Oesen will be at the Atlanta Collaborative meeting.

Discussion on roll out plan: Spitfire Strategies needs to coordinate with the RWJF Communications office and with Georgetown/Johns Hopkins press offices.

Suggested activities:

- National Press Club presentation
- Press conference to include national public health organization directors, Indian Health Service, NGA

